**INCOMING TELEGRAM** (2) *Department of State*

CP Walker

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Control: VR-1434
Rec'd: March 20, 1953
7:15 a.m.

FROM: Tokyo

TO: Secretary of State

NO: 3063, March 20, 7 p.m.

PRIORITY

Reference Department's telegram 2259, March 19 FCN treaty.

Embassy regrets insertion "companies" found confusing since was regarded preferable to proposal by Japanese representatives following phrase in paragraph 4 protocol "than that accorded by the state or territory of the United States of America in which such national is domiciled, or pursuant to the laws of which such company is organized, or, in which, if such company is organized pursuant to the relevant federal laws, such company is located". Department says that aside from national banks all business corporations have state charters. It is precisely in connection with Chase National Bank, National City Bank of New York, and Bank of America, the three national banks presently operating in Japan, that this issue has been raised by the Japanese representatives. They felt that our stressing of state laws under which companies organized was deliberate attempt evade true reciprocity with respect to three banks. As Department aware, continued existence these banks without danger retroactive limitations has been a principal negotiating point and is subject concerning which Ministry of Finance particularly sensitive. Since California and New York are states of greatest importance to Japanese who wish establish bank branches abroad, Japanese Government feels strongly it should be able request favorable consideration Japanese branches by banking authorities those states on basis lenient treatment accorded three United States banks here. They further believe this issue should not be further complicated by National Bank status three banks in question and have openly questioned our motives stressing state laws and avoiding mention national banks. Unless Department able reconsider its position inclusion "and companies" imperative other wording be inserted to meet Japanese point if treaty is to be concluded. Embassy cannot overemphasize importance this point and urges Department reconsider.

Concerning Department's query Japanese Government understanding protocol paragraph four in no way affect second sentence paragraph two, article 7, Embassy believes this point absolutely clear. Department will recall Embassy argued against any reservation concerning retroactive application new limitations and secured Japanese withdrawal

Tokyo daily Journal 1953 MAR 20 AM 7:53 Pertains to pouch 5 3 53

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Japanese withdrawal their proposal this point although acceptance had been authorized by Department's telegram 2057, February 20. Reciprocity concept in paragraph 4 propocol accepted by Japanese in lieu their desire be permitted apply new limitations retroactively, although Cabinet had instructed them insist on such reservation. Cabinet reversed itself at meeting March 20, withdrew previous instructions and accepted reciprocity clause discussed above. This clause has no (repeat no) effect whatsoever on treaty prohibition apply new limitations retroactively, which remains unchanged from original draft.

Embassy requests Department's reply paragraph 4 protocol soonest since treaty already approved by Cabinet and now being prepared for signature by Foreign Office.

MURPHY

BB:JKS/11